

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,)
Petitioner,)
)
v.) C.A. No. 12-12086-MLW
)
JOSEPH SMITH,)
Respondent.)

ORDER

WOLF, D.J.

August 5, 2013

At the June 21, 2013 hearing, the court found that the government had not proven by clear and convincing evidence that respondent Joseph Smith is "presently suffering from a mental disease or defect as a result of which his release would create a substantial risk of bodily injury to another person or serious damage to property of another . . .," 18 U.S.C. §4246(d), if Smith is released on certain revised conditions of Supervised Release. The court ordered the parties to report by July 31, 2013, in essence, whether the conditions of Smith's Supervised Release had been modified in the manner previously agreed to by Smith and whether arrangements had been made for Smith's transport to Georgia, his placement in a Residential Re-entry Center, and his participation in a mental health treatment program as an outpatient. See June 24, 2013 Order. The Order stated that if upon receiving the parties' report the court was satisfied that suitable arrangements had been made to release Smith to serve his term of Supervised Release on the modified conditions, the court

would enter an order denying the government's petition and ordering Smith's release.

On July 31, 2013, Probation advised the court that Judge Marc T. Treadwell of the United States District Court for the Middle District of Georgia had denied Smith's request to modify his conditions of Supervised Release.

The parties have since moved for an extension of time to report.

In light of these events, it is hereby ORDERED that:

1. The Joint Motion for an Extension of Time to Respond to Judge Treadwell's Order of Modification of Conditions (Docket No. 41) is ALLOWED. By August 16, 2013, the parties shall respond to ¶2 of the June 24, 2013 Order. In addition, the parties shall confer, and state and explain their respective positions concerning whether the government has proven by clear and convincing evidence that Smith should be civilly committed pursuant to 18 U.S.C. §4246 if his conditions of Supervised Release are not revised.

2. A hearing shall be held on August 21, 2013, at 3:00 p.m., at which the court may decide whether the government has proven by clear and convincing evidence that Smith should be civilly committed pursuant to 18 U.S.C. §4246 if his conditions of Supervised Release are not revised. Smith shall attend the hearing. A Probation Officer from the Middle District of Georgia is invited and encouraged to attend as well.

/s/ Mark L. Wolf
UNITED STATES DISTRICT JUDGE